

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE DISTRICT OF SOUTH CAROLINA  
ANDERSON DIVISION

Earl Kentrell Carroll,

Plaintiff,

vs.

CSX Railroad Company Corporation,

Defendant.

Civil Action No. 8:09-3119-RBH-WMC

**REPORT OF MAGISTRATE JUDGE**

The plaintiff, a state prisoner proceeding *pro se*, filed this personal injury action on November 30, 2009, and service was authorized on December 7, 2009.

Pursuant to the provisions of Title 28, United States Code, Section 636(b)(1)(A) and Local Civil Rule 73.02)(B)(2)(e) D.S.C., all pretrial matters in cases involving *pro se* litigants are referred to a United States Magistrate Judge for consideration.

On February 12, 2010, the defendant filed a motion to dismiss. On February 16, 2010, pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), the plaintiff was advised of the summary dismissal procedure and the possible consequences if he failed to respond adequately. Despite this explanation, the plaintiff elected not to respond to the motion.

As the plaintiff is proceeding *pro se*, the court filed a second order on April 2, 2010, giving the plaintiff through April 26, 2010, to file his response to the motion to dismiss. The plaintiff was specifically advised that if he failed to respond, this action would be dismissed for failure to prosecute. The plaintiff elected not to respond.

Based on the foregoing, it appears the plaintiff no longer wishes to pursue this action. Accordingly, it is recommended that this action be dismissed for lack of prosecution pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. *Ballard v. Carlson*, 882 F.2d 93 (4th Cir. 1989), *cert. denied*, 493 U.S. 1084 (1990).

May 10, 2010  
Greenville, South Carolina

s/William M. Catoe  
United States Magistrate Judge